

REMARKS

I. Introduction

Claims 10-16 are pending in the present application. Claims 10, 13 and 16 have been amended. Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the above amendments and the following remarks.

Applicants thank the Examiner for acknowledging the claim for foreign priority and the receipt of the certified copies of the priority documents from the International Bureau.

II. Specification

The Specification is objected to because of a reference to the claims. This reference has been already removed as seen in page 1 of the Substitute Specification and in page 1, line 27 of the Marked-Up Version of the Substitute Specification. Applicants respectfully request withdrawal of the objection to the Specification.

III. Drawings

The Drawings are objected to because the same reference numerals refer to different features. Applicants respectfully traverse this objection. The reference numerals used in the Drawings do not refer to different features; rather, the same reference numerals are used to refer to the same features in different positions, in different drawings. For example, same element 16 (the web) is shown in two different positions in Figs. 1 and 2. This use of reference numerals is consistent with 37 CFR § 1.84 (p) (4) which states that “[t]he same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character, and the same reference character must never be used to designate different parts.” Applicants respectfully request withdrawal of the objection to the Drawings.

IV. § 112, Second Paragraph

Claims 10-16 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present application. In order to expedite prosecution of the application, claims 10, 13 and 16 have been amended to clarify the claimed subject matter. Applicants respectfully submit that amended claims clearly cover both exemplary embodiments shown in Figs. 1 and 2. It is therefore respectfully requested that this indefiniteness rejection be withdrawn.

V. Claims 10-15 Are Not Anticipated by Sickles

Claims 10-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,450,306 ("Sickles"). Applicants respectfully submit that the rejection should be withdrawn for the following reasons.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added).

Claim 10, as amended, recites "a substantially annular clip having two portions, each portion having two end sections, wherein for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section." While the Examiner relies on Figure 5 of Sickles for teaching the claimed invention, nothing in Sickles teaches that "for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section."

In view of the above discussion, Applicants respectfully submit that Sickles does not anticipate claim 10. Claims 11-15 depend from claim 10, so the above argument regarding claim 10 applies equally to claims 11-15, and Sickles also fails to anticipate claims 11-15 for at least this reason.

VI. Claims 10-14 Are Not Anticipated By Bartholomew

Claims 10-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by PCT International Published Patent Application No. WO 97/12170 ("Bartholomew"). Applicants respectfully submit that the rejection should be withdrawn for the following reasons.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added).

Claim 10, as amended, recites “a substantially annular clip having two portions, each portion having two end sections, wherein for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section.” While the Examiner relies on Figures 7 and 8 of Bartholomew for teaching the claimed invention, nothing in Bartholomew teaches that “for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section.”

In view of the above discussion, Applicants respectfully submit that Bartholomew does not anticipate claim 10. Claims 11-14 depend from claim 10, so the above argument regarding claim 10 applies equally to claims 11-14, and Bartholomew also fails to anticipate claims 11-14 for at least this reason.

VII. The Rejection Of Claim 15 Under 35 U.S.C. § 103(a) Should Be Withdrawn

Claim 15 stands rejected under 35 U.S.C. § 103(a). It is contended that this claim is unpatentable over Bartholomew in view of U.S. Patent No. 3,442,171 (Engelmann). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that at least this criterion for obviousness is not met here.

Claim 15 ultimately depends on claim 10. Consequently, all claim limitations of claim 10 of the present application that Bartholomew and Engelmann do not teach or suggest are also not taught or suggested with respect to claim 15 of the present application. As discussed above in connection with the § 102(b) rejection, Bartholomew fails to teach or suggest that “for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section,” as recited in parent claim 10. Engelmann similarly fails to teach or suggest this claimed feature. Accordingly, dependent claim 15 is not rendered obvious by the combination of Bartholomew and Engelmann for at least this reason.

For at least the reasons discussed above, withdrawal of the rejection under 35 U.S.C. § 103(a) with respect to claim 15 is hereby respectfully requested.

VIII. The Rejection Of Claim 16 Under 35 U.S.C. § 103(a) Should Be Withdrawn

Claim 16 stands rejected under 35 U.S.C. § 103(a). It is contended that this claim is unpatentable over the Applicants' admitted prior art in view of Bartholomew. Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that at least this criterion for obviousness is not met here.

Claim 16, as amended, recites "a substantially annular clip having two portions, each portion having two end sections, wherein for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section." Neither the Applicants' admitted prior art nor Bartholomew teaches that "for each portion of the annular clip, the radial cross-section decreases from one end section to the other end section."

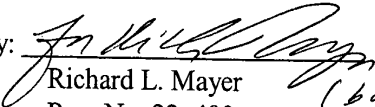
For at least the reasons discussed above, withdrawal of the rejection under 35 U.S.C. § 103(a) with respect to claim 16 is hereby respectfully requested.

IX. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,
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